

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DENNIS RAY RIGSBY, JR,)	
)	
Plaintiff,)	
)	
v.)	No. CIV-22-646-R
)	
FEDERAL BUREAU OF)	
INVESTIGATION, et al.,)	
)	
Defendants.)	

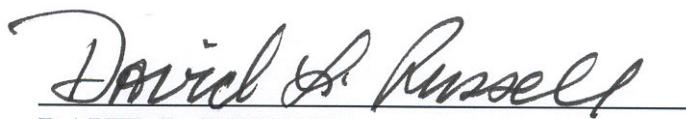
ORDER

Plaintiff filed this action alleging the violation of his constitutional rights by Defendants. To that end he filed a Motion for Leave to Proceed in Forma Pauperis (Doc. No. 2), which was referred to United States Magistrate Judge Suzanne Mitchell for preliminary review. On August 9, 2022, Judge Mitchell issued a Report and Recommendation wherein she recommended the motion be denied pursuant to 28 U.S.C. § 1915(g), because Plaintiff has accumulated more than three “strikes” as a result of prior lawsuits. (Doc. No. 6). In those suits, identified in the Report and Recommendation, Plaintiff was granted leave to proceed without prepayment of fees and the cases or appeals were dismissed as frivolous or malicious or because Plaintiff failed to state a claim. Therefore, pursuant to the Prison Litigation Reform Act, 28 U.S.C. § 1915(g), Plaintiff must prepay the filing fee unless he is “under imminent danger of serious physical injury.” The Report and Recommendation concludes that Plaintiff has not made such a showing. The matter is currently before the Court on Plaintiff’s timely objection to the Report and

Recommendation (Doc. No. 9) which gives rise to the Court's obligation to undertake a de novo review of those portions of the Report and Recommendation to which Plaintiff makes specific objection. Having done so, the Court hereby ADOPTS the Report and Recommendation and orders Plaintiff to pay the \$402.00 filing fee within twenty-one days of this Order. Failure to remit payment in a timely manner will result in dismissal of this action without further notice.

Although Plaintiff complains that Judge Mitchell ignored certain of his allegations regarding conditions at the Custer County detention center, specifically the denial of blankets, adequate sunlight, and a kosher diet, Plaintiff is no longer detained in that facility. Rather, he has been moved to the custody of the Department of Corrections, the Davis Correctional Facility in Holdenville, Oklahoma, as evidenced by his filings. As a result, the denial of blankets, sunlight or a kosher diet by officials in Custer County could not create "imminent danger of serious physical harm." Accordingly, Plaintiff must pay the entire filing fee and his Motion for Leave to Proceed in Forma Pauperis is DENIED.

IT IS SO ORDERED this 29th day of August 2022.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE